



AF
JFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Mark J. Kraffert

§ Group Art Unit: 2857

Serial No.: 09/776,364

§
§

Filed: February 2, 2001

§
§
§

Examiner: Jeffrey R. West

For: Sharing Data Files in a Test
Environment

§
§

Atty. Dkt. No.: MCT.0134US
(MUEI-0558.00/US)

Mail Stop Appeal Brief – Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. § 41.52

Sir:

This is a request for rehearing of the Decision on Appeal dated July 27, 2006 affirming the final rejection of the claims as being obvious over Gartner and Fitting.

A. ERROR COMMITTED IN DECISION ON APPEAL WITH RESPECT TO REJECTION OF CLAIMS 1-5 AND 28-32 OVER GARTNER AND FITTING

Appellant presented arguments against this group of claims as “Arguments Pertaining to Group 7: Claims 1-5, 28-32” in the Appeal Brief, starting on page 16.

In affirming the rejection of these claims over Gartner and Fitting, the Decision on Appeal made the following statements:

- [T]he artisan would well appreciate that the teachings of Fitting obviously would have enhanced the operability of Gartner’s system to make it usable within a plurality of test system environments.
- The complementary nature of the teachings of both Gartner and Fitting are compelling of the obviousness of combining them.

7/27/2006 Decision on Appeal, at 8-9.

Date of Deposit:

September 27, 2006

I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Ginger Yount

Ginger Yount

It is respectfully submitted that the Board has misapprehended the teachings of Gartner and Fitting. The teachings of Gartner and Fitting are not at all “complementary” in nature, and it is respectfully submitted that a person of ordinary skill in the art would not have been motivated to combine the teachings of Gartner and Fitting.

As set forth in the Appeal Brief, Gartner relates to a system and method for testing a database system that includes external file references to files stored on a remote file system. The database system stores a control table that enables access to files on the remote file system accessed through the external file references. Gartner, Abstract. The database system provides for definitions of relations that accommodate the existence of an attribute that is according to an external file reference (EFR) data type. Gartner, 5:42-46. The data structure of the EFR data type includes the name of a server and the name of a file (file name). Gartner, 5:46-47. The EFR data type supports database system behavior that causes the database system to issue a “LinkFile” command to an appropriate file server for the named file when an enterprise user issues an SQL call. Gartner, 5:55-59. A table that contains an attribute according to the EFR data type is table 60, shown in Fig. 2 of Gartner. A query can be made to retrieve contents of the table 60 in the database system. The query returns results that include one or more servers/filename references. Gartner, 6:19-24.

In contrast, as explained in the Appeal Brief, in Fitting, an empty file is generated by a test system to send to a database server. The database server, from this empty file, generates a database query to obtain a model number. This model number is provided back to the requesting test system by appending the model number to the file name of the empty file. In this way, the products that are being tested do not need to store their model information, since the test systems are able to retrieve the model information based on the identifier of each product.

In Fitting, the file name that contains the model number that is provided back to the requesting test system allows the test system to readily identify the model information based on the identifier of a product, such that a quality control system 104 in Fitting can more efficiently test products on a conveyance 110 (see Fig. 1 of Fitting). However, providing model information in the file name, as taught by Fitting, is completely unrelated to the database test system of Gartner. As noted above, Gartner is concerned about testing a database that accommodates external file references, which was stated by Gartner as more likely to cause files to be corrupted since the files referenced by the external file references are not within the control

of the database management system (see Gartner, 8:64-9:2). A person of ordinary skill in the art would clearly not have recognized the desirability of incorporating the technique taught by Fitting regarding the provision of product model information in a file name into the database test system used in Gartner, which relates to testing in a database environment containing external references that leads to the increased likelihood of corruption of files.

The Decision on Appeal cites to column 7, lines 36-60, of Fitting as disclosing various advantages of the approach followed by Fitting – however, the efficiency gained in providing model information of a product to be tested, as taught by Fitting, bears no relation to the database test system described in Gartner. More fundamentally, it is noted that the claimed invention does not relate to providing information in a file name to a test system; rather, the claimed subject matter is directed to identifying a file name of a data file to use in each of first and second tests based on received plural parameters. In other words, the claimed subject matter is directed to identifying a file name for use in tests based on received parameters, not to conveying information in a file name as taught by Fitting.

In view of the foregoing, it is respectfully submitted that the Board has misapprehended the teachings of Gartner and Fitting in affirming the obviousness rejections. In fact, a person of ordinary skill in the art would not have been motivated to combine the teachings of Gartner and Fitting to achieve the claimed subject matter.

In view of the foregoing, it is requested that the Board reverse the final rejection of claims 1-5 and 28-32 over Gartner and Fitting.

B. ERROR COMMITTED IN DECISION ON APPEAL WITH RESPECT TO REJECTION OF CLAIMS 6-14, 17-19, 23, 24, AND 27 OVER GARTNER AND FITTING

The Board has apparently overlooked Appellant's arguments presented with respect to Group 8 in the Appeal Brief (which includes claims 6-14, 17-19, 23, 24, and 27). The arguments pertaining to Group 8 refer to the obviousness rejection of the above claims over Gartner and Fitting. Because the Board appears to not have addressed the arguments pertaining to Group 8 (which appeared on page 19 of the Appeal Brief), Appellant will resubmit the arguments herein.

As conceded by the Examiner, Gartner does not specifically disclose combining first and second parameters to form a file name. 3/11/2004 Office Action at 7. Appellant further submits that Gartner also does not disclose or suggest receiving a second value representing a database to

perform a test on. The Examiner cited to column 5, lines 41-54, of Gartner for the teaching of receiving the second value representing a database to perform a test on. A closer review of Gartner will reveal that the cited passage actually refers to storing an external file reference within a table, such as table 60, in a database management system. The external file reference refers to an external file system containing test files. These external file references do not constitute the second value representing a database to perform a test on. The test files in the external file system are actually files used during testing of the database system. Therefore, Gartner is lacking a number of items asserted to be disclosed by Gartner in the Office Action.

In response to the above arguments, the Examiner stated that the external file references are the databases being tested. 3/11/2004 Office Action at 17. This statement contradicts the teaching of Gartner itself, which shows the database system being tested as being DBMS 15. The external file reference refers to test files -- they are not the databases being tested.

Fitting also fails to disclose the missing elements. Fitting does not teach or suggest receiving a second value representing a database to perform a test on, in conjunction with combining the first value and the second value to generate a file name of a test file to use in a test. Thus, since neither Gartner nor Fitting teaches or suggest the claimed invention, their *hypothetical combination* also does not teach or suggest the claimed invention. A *prima facie* case of obviousness has thus not been established with respect to claim 1.

Independent claims 14, 23, and 27 are allowable over the asserted combination of Gartner and Fitting for similar reasons.

In view of the foregoing, reversal of the final rejection of claims 6-14, 17-19, 23, 24, and 27 is respectfully requested.

C. CONCLUSION

In view of the defective obviousness rejection of base claims over Gartner and Fitting, it is respectfully requested that the final rejection of claims 20, 21, 25, and 26 over Gartner, Fitting, and Walls be reversed.

Because the Decision on Appeal has misapprehended and overlooked points raised by Appellant's arguments during the appeal, it is respectfully requested that the Board reconsider the Decision on Appeal, and reverse all rejections over each of (1) Gartner and Fitting, and (2) Gartner, Fitting, and Walls.

Since the Board has reversed the final rejection of claims 3-14, 17-21, and 23-32 over Slutz and Fujimori (and other references), it is respectfully submitted that claims 3-14, 17-21, and 23-32 are in condition for allowance.

No fee is believed to be due. However, the Commissioner is authorized to charge any fees that may be required, including petition for extension of time fees, and/or credit any overpayment to Deposit Account No. 20-1504 (MCT.0134US).

Respectfully submitted,

Date:

Sept 27, 2006



Dan C. Hu
Registration No. 40,025
TROP, PRUNER & HU, P.C.
1616 South Voss Road, Suite 750
Houston, TX 77057-2631
Telephone: (713) 468-8880
Facsimile: (713) 468-8883